IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.T.SANKARAN

WEDNESDAY, THE 14TH JUNE 2006 / 24TH JYAISHTA, 1928

CRP.No. 430 of 2004(I)

AA.22/2002 of APPELLATE AUTHORITY (LR), ALAPPUZHA
SM.183/2000 of LAND TRIBUNAL, CHERTHALA

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REVN. PETITIONER:/APPELLANT/APPLICANT:

JACOB THARAKAN, S/O. CHACKO ABRAHAM,
MEENAMPARAMBIL, KUNNUMMA VILLAGE, KAVALAM.

BY ADV. SRI.K.S. HARIHARAPUTHRAN
ADV. SRI.GEORGE MATHEW

RESPONDENT/ RESPONDENT/RESPONDENT:

SIVASANKARAN NAIR,
S/O. LATE DR. PADMANABHA PANICKER,
SARASWATHI MANDIRAM, PALACE WARD, ALAPPUZHA.

BY ADV. SRI.T.K.VENUGOPALAN

THIS CIVIL REVISION PETITION HAVING COME UP FOR ADMISSION ON 14/06/2006, ALONG WITH CRP NO. 99 OF 2005, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.T. SANKARAN, J.

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C.R.P. Nos. 430 OF 2004 & 99 OF 2005

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Dated this the 14th June, 2006

O R D E R

Both these revisions arise out of a common judgment dated 29th May, 2003 in A.A. Nos. 22 and 23 of 2002 passed by the Appellate Authority (L.R.), Alappuzha. The petitioner in C.R.P.No. 430/2004 is the appellant in A.A.No. 22 of 2002 and the petitioners in C.R.P.No. 99 of 2005 are the appellants in A.A. No. 23 of 2002 . A.A.No. 22 of 2002 arose out of S.M. No. 183 of 2000, Land Tribunal, Cherthala while A.A. No. 23 of 2002 arose out of S.M.No. 184 of 2000, Land Tribunal, Cherthala. In C.R.P.No. 99 of 2005, the petition for condonation of delay in filing the revision was not disposed of. After hearing the counsel for the petitioner and the first respondent, the delay is condoned. Since the question involved in both these revisions are similar, C.R.P.No. 99 of 2005 is also heard along with other C.R.P., which is being disposed of by this common judgment.

2. The petitioner in C.R.P.No. 430 of 2004 claims tenancy right in respect of an extent of 38 cents of land and the petitioner in C.R.P.No. 99 of 2005 claims tenancy right in respect of an extent of another 38 cents . The case of the petitioner in C.R.P.No. 430 of 2004 is that as per an un-registered agreement executed between Parvathy Amma and the petitioner, the petitioner is in possession of the property. It is also contended that even before the execution of the agreement, the petitioner was in possession of the property. There was dispute between Parvathy Amma and the first respondent and others and that was settled in O.S.No. 436 of 1983 on the file of the Addl. Munsiff's Court, Alappuzha in favour of the defendants in the suit. It was held in that suit that the first respondent has title to the property. It is also not in dispute that O.S.No. 961 of 1990 and O.S.No. 980 of 1990 were filed by the first respondent in these revision petitions against the parents of the revision petitioners and by a common judgment, those suits were decreed for recovery of possession.

3. In those suits, no tenancy right was set up by the parents of the revision petitioners and their only contention was that they were in possession of the disputed property from 1975 as per an agreement for

sale executed between them and Parvathy Amma. The contentions put forward by the parents of the revision petitioners were rejected and the suits were decreed. In execution of the decree, the properties were put in possession of the decree holders. It is also not in dispute that the judgment and decree in O.S.Nos. 961 of 1990 and 980 of 1990 were confirmed in appeals and that the decision of the trial court has become final. In view of the judgment and decree in O.S.Nos. 961 and 980 of 1990, revision petitioners in C.R.P. Nos. 430 of 2004 and 99 of 2005 are not entitled to claim any tenancy right in respect of the property in dispute. The parents of the revision petitioners having put forward a case that they were in possession on the basis of an agreement for sale and they having put forward no claim of tenancy right, the revision petitioners in both the revisions are not entitled to contend that they have tenancy right in respect of the disputed property. There is no case of any entrustment of the property on tenancy right before 01.04.1964, the date of commencement of the Kerala Land Reforms Act and the case of the revision petitioners is only that they were put in possession on the basis of an agreement for sale . Possession under an agreement for sale does not

confer any right, title or interest to claim fixity of tenure under the Kerala Land Reforms Act.

The Land Tribunal and the Appellate Authority were fully justified in rejecting the claim put forward by the revision petitioners. There is no ground to interfere with the concurrent findings of the Land Tribunal and the Appellate Authority . Revision petitions lack merit and the same are accordingly dismissed. No order as to costs.

K.T. SANKARAN,
JUDGE.

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K.T. SANKARAN, J.

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C.R.P.Nos. 430 of 2004 &
99 of 2005

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Dated this the 14th June, 2006.

O R D E R